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June 24, 2020

District Judge Nelson S. Román  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, NY 10601

Re: 7:19-cv-11224-NSR  
Fore-Heron v. The Price Chopper, Inc.

Dear District Judge Román:

This office represents the plaintiff. On Monday, June 22, 2020, defendant served and filed a letter seeking a pre-motion conference for filing a motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6). In accordance with your Honor's Individual Rules, plaintiff is required to submit a letter setting forth its position within three business days.

Following defendant's filing, plaintiff notified defendant it intended to amend the complaint. Under the federal rules, plaintiff would have until Monday, July 13, 2020 to amend its complaint as of right. Fed. R. Civ. P. 15(a)(1)(B); *Solis v. McAleenan*, No. 19-cv-5383 (S.D.N.Y. Dec. 5, 2019) ("Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course."); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at \*3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), \*2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff also requested, and defendant consented to, an extension of time to file the amended complaint, until Friday, August 21, 2020, which is 39 days from Monday, July 13, 2020 and a total of 60 days from the date of defendant's motion, Monday, June 22, 2020.

Plaintiff requests the Court permit the filing of the amended complaint on or before Friday, August 21, 2020. There have been no previous requests by plaintiff for an extension of time to file the amended complaint. This request does not affect any other scheduled dates. This request is made at least two days prior to the original compliance date for the filing of an amended complaint, subject to your Honor's Individual Rules. Thank you.

Respectfully submitted,

/s/Spencer Sheehan  
Spencer Sheehan

**Certificate of Service**

I certify that on June 24, 2020, I served and/or transmitted the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email	Fax
Defendant's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plaintiff's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courtesy Copy to Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan